IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Writ Petition No.310 of 2007

Bhartibai Rajputra Singh and ors ..... Petitioners
vs
The Municipal Corporation of
Gr Mumbai and ors .... Respondents

Mr J.G Damani for petitioners
Mrs P.A. Purandhare for respondent No.1
Mr K.R.Belosey Acg. G. P. for the respondent State.

CORAM: SWATANTER KUMAR,C.J.,&
S.C.DHARMADHIKARI, J.

DATE: APRIL 27, 2007.

P.C.:-

We have heard the learned counsel for the parties. The learned counsel for the petitioners contends that the question whether the structure where the petitioners are resided, was unauthorised or illegal, is irrelevant for the purpose of present petition. He has approached this Court under Article 226 of the Constitution of India for a limited relief that the Corporation should be directed to provide water connection to the petitioners' premises in question. He has also shown

certain photographs to us, which reflected that some temporary structure is existing on the site.

2. The learned counsel for the Corporation in terms of the previous order of the Court has produced the records in court, copies of which have been given to the learned counsel for the petitioners, to show that the petitioners' structure was demolished three times, as it was an unathorised and illegal structure. She states that even after the last demolition, the petitioners might have raised some temporary structure and keeping in view the fact that the petitioner had earlier instituted a suit, the petitioners cannot be granted any relief in equitable jurisdiction of this court under Article 226 of the Constitution of India.

3. Having heard the learned counsel for the parties and perusal of the record produced before us, we are of the considered view that no writ of mandamus can issue to the respondents for providing water connection to the petitioners' unauthorised and illegal premises. There is no doubt that this alleged structure had been demolished on earlier occasions and the petitioners have persisted with raising the same again and

again. Equitable jurisdiction of the court can be invoked by a person, who himself or herself, is fair and shown equity before claiming any relief in equity. The case of the petitioners is far away from the limitations of this principle. We see no reason to direct the respondents to provide water connection to the petitioners' premises in question.

Petition is dismissed, leaving the parties to bear their own costs.

CHIEF JUSTICE

S.C.DHARMADHIKARI,J.